

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

EQUAL EMPLOYMENT OPPORTUNITY	)	
COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 09-CV-602-GKF-FHM
	)	
ABERCROMBIE & FITCH STORES, INC.	)	
d/b/a ABERCROMBIE KIDS,	)	
	)	
Defendant.	)	

**ANSWER OF DEFENDANT ABERCROMBIE & FITCH STORES, INC.**

Defendant Abercrombie & Fitch Stores, Inc. (“Defendant”), by its undersigned counsel, hereby answers the Complaint of Plaintiff Equal Employment Opportunity Commission (“Plaintiff”) as follows:

**ANSWER**

1. In answering paragraph 1 of the Complaint, Defendant admits that this Court has jurisdiction over this matter and that venue is proper in this Court. Defendant denies the remaining allegations contained in paragraph 1 of the Complaint.

2. In answering paragraph 2 of the Complaint, Defendant states that Title VII and the subsections cited in paragraph 2 of the Complaint speak for themselves. Defendant denies the remaining allegations contained in paragraph 2 of the Complaint.

3. In answering paragraph 3 of the Complaint, Defendant states that it currently employs at least 15 employees in the state of Oklahoma. Defendant denies the remaining allegations contained in paragraph 3 of the Complaint.

4. In answering paragraph 4 of the Complaint, Defendant states that it is an employer engaged in an industry affecting commerce. Defendant denies the remaining allegations contained

in paragraph 4 of the Complaint.

5. Defendant admits the allegations contained in paragraph 5 of the Complaint.
6. Defendant denies the allegations contained in paragraph 6 of the Complaint.
7. Defendant denies the allegations contained in paragraph 7 of the Complaint.
8. Defendant denies the allegations contained in paragraph 8 of the Complaint.
9. Defendant denies that either Plaintiff or Samantha Elauf (“Elauf”) is entitled to the remedies requested in the Prayer for Relief, including subparagraphs (A) through (G) of the Prayer for Relief, or to any remedy whatsoever.
10. Defendant denies each and every allegation of the Complaint not specifically admitted to be true herein.

#### **AFFIRMATIVE DEFENSES**

1. Plaintiff’s Complaint fails to state a claim upon which relief can be granted.
2. Some or all of Plaintiff’s claims are barred by the applicable statute of limitations.
3. All of Defendant’s actions toward Elauf were taken in good faith and for legitimate, non-retaliatory and non-discriminatory reasons.
4. Elauf has failed to mitigate or minimize her damages, if any.
5. Some or all of Plaintiff’s claims are barred by the doctrines of waiver, estoppel, unclean hands, preemption and laches.
6. Plaintiff and Elauf failed to exhaust their administrative remedies.
7. Plaintiff and Elauf are not entitled to the remedies requested in the Complaint.
8. The accommodation sought by Plaintiff in the Complaint constitutes an undue burden on Defendant.
9. Plaintiff’s claims fail, in whole or in part, because Defendant breached no legal duty

owed to Elauf.

10. Some or all of the claims asserted fail as a matter of law because Defendant Abercrombie & Fitch Stores, Inc. was not Elauf's employer at the time of the alleged unlawful conduct.

11. Some or all of the claims asserted fail because they infringe upon Defendant's right to commercial free speech.

12. Some or all of the claims asserted fail because Elauf failed to request an accommodation of her religious beliefs.

Defendant expressly reserves the right to amend this Answer to include additional affirmative defenses and/or counterclaims as further investigation and discovery may warrant.

**WHEREFORE**, Defendant respectfully requests that Plaintiff's Complaint be dismissed, with prejudice, and that it be awarded its fees and costs incurred herein, including attorneys' fees, and that it be awarded such other and further relief to which it may be entitled, in equity or in law.

Respectfully submitted,

s/Kristen L. Brightmire

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on November 24, 2009, a copy of the foregoing Answer was filed electronically with the Court. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Service will be made by operation of that system upon:

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s/Kristen L. Brightmire  
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